

**Statement by the United States at the Meeting of the WTO Dispute Settlement Body**

**Geneva, July 21, 2016**

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB
  - A. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN HOT-ROLLED STEEL PRODUCTS FROM JAPAN: STATUS REPORT BY THE UNITED STATES (WT/DS184/15/ADD.162)
    - The United States provided a status report in this dispute on July 9, 2016, in accordance with Article 21.6 of the DSU.
    - The United States has addressed the DSB’s recommendations and rulings with respect to the calculation of anti-dumping margins in the hot-rolled steel anti-dumping duty investigation at issue.
    - With respect to the recommendations and rulings of the DSB that have yet to be addressed, the U.S. Administration will work with the U.S. Congress with respect to appropriate statutory measures that would resolve this matter.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

B. UNITED STATES – SECTION 110(5) OF THE US COPYRIGHT ACT:  
STATUS REPORT BY THE UNITED STATES (WT/DS160/24/ADD.137)

- The United States provided a status report in this dispute on July 9, 2016, in accordance with Article 21.6 of the DSU.
- The U.S. Administration will continue to confer with the European Union, and to work closely with the U.S. Congress, in order to reach a mutually satisfactory resolution of this matter.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

C. EUROPEAN COMMUNITIES - MEASURES AFFECTING THE APPROVAL AND MARKETING OF BIOTECH PRODUCTS: STATUS REPORT BY THE EUROPEAN UNION (WT/DS291/37/ADD.100)

- The United States thanks the European Union (“EU”) for its status report and its statement today.
- As the United States has noted repeatedly at past meetings of the DSB, EU measures affecting the approval and marketing of biotech products remain of substantial concern to the United States. The EU’s delay of approval for pending applications is having a dramatic impact on trade.
- For years, the delays have been restricting U.S. exports of key agricultural products to the EU. In the past, this has primarily affected corn, but this year, U.S. exports of soybeans are being negatively impacted.
- As we noted at a number of prior DSB meetings, the United States has serious concerns with the EU’s significant delay in approving the applications of three varieties of biotech soybeans. These varieties are critical for U.S. farmers because they include important technologies that promote weed control, and the varieties are grown across the United States.
- The EU’s scientific body concluded extensive scientific reviews of these soybean varieties in June and July of 2015. Those reviews confirmed that these biotech products are safe for use in the EU. The EU, however, has continued to delay approval of these products, without any legitimate basis.
- The United States again asks the EU to ensure that its biotech approval measures are consistent with its obligations under the SPS Agreement.

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D. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN SHRIMP FROM VIET NAM (WT/DS404/11/ADD.48)

E. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN SHRIMP FROM VIET NAM (WT/DS429/15)

- Under this agenda item, the United States will address both disputes involving antidumping measures on shrimp from Vietnam.
- The United States is pleased to inform the DSB that on Monday, July 18, 2016, the United States and Vietnam reached a mutually agreed solution in both disputes.
- The United States and Vietnam have submitted the mutually agreed solution to the DSB for circulation, and it should be circulated shortly.
- The resolution of these two disputes was an element of an agreement between the United States and Vietnam resolving a number of outstanding issues involving the antidumping duty order on shrimp from Vietnam.
- The successful resolution of these disputes demonstrates the commitment of the United States to compliance with DSB recommendations and to securing positive solutions to outstanding disputes.
- The resolution also demonstrates the ability of the United States and Vietnam to work together in a constructive manner to resolve difficult trade issues.
- The United States looks forward to the continued enhancement of its bilateral trade relationship with Vietnam.

3. UNITED STATES – CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB

A. STATEMENTS BY THE EUROPEAN UNION AND JAPAN

- As the United States has noted at previous DSB meetings, the Deficit Reduction Act – which includes a provision repealing the Continued Dumping and Subsidy Offset Act of 2000 – was enacted into law in February 2006. Accordingly, the United States has taken all actions necessary to implement the DSB’s recommendations and rulings in these disputes.
- We recall, furthermore, that the EU, Japan, and other Members have acknowledged that the Deficit Reduction Act does not permit the distribution of duties collected on goods entered after October 1, 2007, which is over eight years ago.
- We therefore do not understand the purpose for which the EU and Japan have inscribed this item today.
- With respect to comments regarding further status reports in this matter, as we have already explained at previous DSB meetings, the United States fails to see what purpose would be served by further submission of status reports which would repeat, again, that the United States has taken all actions necessary to implement the DSB’s recommendations and rulings in these disputes.
- Indeed, as these very WTO Members have demonstrated repeatedly when they have been a responding party in a dispute, there is no obligation under the DSU to provide further status reports once a Member announces that it has implemented those DSB recommendations and rulings, regardless of whether the complaining party disagrees about compliance.

4. CHINA – CERTAIN MEASURES AFFECTING ELECTRONIC PAYMENT SERVICES

A. STATEMENT BY THE UNITED STATES

- The DSB adopted its recommendations and rulings in this dispute in August 2012, and the reasonable period of time expired in July 2013.
- As the United States has noted at past meetings of the DSB, China's sole domestic supplier continues to maintain control of the domestic electronic payment services ("EPS") market.
- In accord with its WTO obligations, China must adopt measures necessary and take the required steps to allow the operation of foreign EPS suppliers in China.
- The United States takes note that last month, nearly 4 years after the DSB adopted its recommendations and rulings in this dispute, China issued a regulation that appears to set out a licensing application process for electronic payment service suppliers to obtain authorization to do business in the Chinese market.
- The United States is in the process of reviewing these regulations and their operation, with a view to determining whether the regulations will allow for the approval of foreign EPS suppliers without further delays.

5. UNITED STATES – COUNTERVAILING DUTY MEASURES ON CERTAIN HOT ROLLED CARBON STEEL FLAT PRODUCTS FROM INDIA

A. STATEMENT BY INDIA

- As we have explained at prior DSB meetings, the United States has completed implementation with respect to the DSB recommendations and rulings in this dispute.
- We are prepared to confer further with India should it have any questions, but India has not contacted us prior to or since proposing this item for today’s agenda. Therefore, it would not appear that resolving its concerns is India’s intent in taking the time of the DSB today.
- With respect to the “as such” finding on Section 1677(7)(G)(i)(III) of the Tariff Act of 1930, we have explained both to India and to the DSB that no further U.S. action is needed.
- As we explained before, under U.S. law, Commerce has discretion with respect to the timing of a self-initiated investigation, and Commerce has confirmed its commitment to exercise this discretion in a manner that is consistent with the international obligations of the United States.
- Indeed, this provision of U.S. law has never been applied at all.
- Therefore, India has no basis for its insistence that U.S. law must be changed in order for the United States to comply with the DSB recommendations in this dispute.
- Given that the United States has fully complied in this dispute, the United States is not required to submit further status reports in this matter.
- Regarding the subsidies determinations, as described in previous DSB meetings, on April 14, 2016, the U.S. Department of Commerce issued a new CVD determination rendering its determination with respect to subsidization and the calculation of countervailing duty rates consistent with the DSB recommendations in this dispute.
- Commerce’s determination fully complies with the findings of the panel and Appellate Body in this dispute regarding subsidization and the calculation of countervailing duty rates.
- As also described in previous DSB meetings, on March 7, 2016, the U.S. International Trade Commission issued a new CVD injury determination rendering the findings with respect to injury in the underlying CVD proceeding on hot-rolled steel from India consistent with the DSB recommendations in this dispute.
- Regarding the issue of sequencing agreements that India has raised, the United States, and presumably India, entered into a sequencing agreement in DS436 based on an assessment of

this dispute. Both parties appeared to agree that a sequencing agreement could help them in resolving this dispute.

- With respect to DS430, that matter is not on today's agenda, but as explained at the last DSB meeting, the United States considered that the circumstances warranted moving forward with a request under Article 22.2 of the DSU.
- The United States remains engaged with India on issues of procedure and substance in that dispute, and seeks to find a positive solution in that dispute.



6. UNITED STATES –COUNTERVAILING MEASURES ON CERTAIN  
SUPERCALENDERED PAPER FROM CANADA

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY CANADA  
(WT/DS505/2)

- The United States regrets that Canada has chosen for a second time to request the establishment of a panel with regard to this matter.
- As we have explained both to Canada and to the DSB, the U.S. actions described in Canada's request are fully consistent with U.S. obligations under the WTO Agreement.
- The United States is prepared to engage in these proceedings and to explain to the panel that Canada has no legal basis for its claims. Further, this statement is without prejudice to whether each of the items cited in Canada's panel request constitutes a measure for purposes of the DSU, and therefore is subject to examination by the panel.

8. UNITED STATES – COUNTERVAILING DUTY MEASURES ON CERTAIN PRODUCTS FROM CHINA

A. RECOURSE TO ARTICLE 21.5 OF THE DSU BY CHINA: REQUEST FOR THE ESTABLISHMENT OF A PANEL (WT/DS437/21)

- We are disappointed that China has chosen to request the establishment of an compliance panel in this matter.
- As the United States stated at the June meeting of the DSB, contrary to China’s view, there is no basis for suggesting that U.S. compliance was inadequate. We maintain that the measures identified in China’s request for establishment of a panel are fully WTO-consistent.
- Nevertheless, the United States recognizes that the procedures set forth in the sequencing agreement between China and the United States provide that the United States shall accept the establishment of a compliance panel at the first DSB meeting in which China’s request appears on the agenda.
- The United States is prepared to engage in these proceedings and to explain to the compliance panel that China has no legal basis for its claims. This statement is without prejudice to whether each of the items cited in China’s panel request constitutes a measure for purposes of the DSU, and therefore is subject to examination by the panel.

9. STATEMENT ON A MECHANISM FOR DEVELOPING, DOCUMENTING AND SHARING PRACTICES AND PROCEDURES IN THE CONDUCT OF WTO DISPUTES (JOB/DSB/1)

A. STATEMENT BY CANADA

- We thank Canada for circulating the various documents and for being willing to work with Members.
- However, we continue to have a number of questions about the statement and accompanying documents.
- For instance, it is not clear to us what is the legal effect, if any, of “endorsing” the statement or individual practice documents.
- As a result, the United States is continuing to examine the statement and individual practice documents.
- We look forward to continuing to discuss these matters with interested Members.

## 11. APPELLATE BODY MATTERS

### A. STATEMENT BY THE CHAIRMAN

- The United States thanks you, Mr. Chairman, for your work in outlining a process for the DSB to move forward to fill two vacancies on the Appellate Body.
- We look forward to a prompt conclusion of that process. The appointment process is critical to ensure that Appellate Body reports are focused and of high quality, thereby strengthening Members' confidence in the dispute settlement system.
- We also look forward to engaging with all Members on how to reinforce the aim and proper adjudicative approach of the dispute settlement system.